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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,092	02/20/2004	Jennipher Grudzien	GBN-110-C	6907
22825 WILLIAM M H	7590 03/06/200 HANLON, JR	8	EXAMINER	
YOUNG & BASILE, PC			LEVKOVICH, NATALIA A	
3001 WEST BIG BEAVER ROAD SUITE 624			ART UNIT	PAPER NUMBER
TROY, MI 480	4-3107		1797	
			MAIL DATE	DELIVERY MODE
			03/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Application No.	Applicant(s)				
		10/784,092	GRUDZIEN ET AL.				
		Examiner	Art Unit				
		NATALIA LEVKOVICH	1797				
The MAILING DA Period for Reply	TE of this communication app	pears on the cover sheet with the	correspondence address				
WHICHEVER IS LONG - Extensions of time may be ava after SIX (6) MONTHS from the - If NO period for reply is specific - Failure to reply within the set of	ER, FROM THE MAILING D. illable under the provisions of 37 CFR 1.1 e mailing date of this communication. It is above, the maximum statutory period or extended period for reply will, by statute e later than three months after the mailing	Y IS SET TO EXPIRE 1 MONTHATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be will apply and will expire SIX (6) MONTHS frow, cause the application to become ABANDON grate of this communication, even if timely fill	N. imely filed m the mailing date of this communication. ED (35 U.S.C. § 133).				
Status							
1) Responsive to co	mmunication(s) filed on <u>20 F</u>	ebruary 2004					
2a) This action is FIN	· · · <u>_</u>	action is non-final.					
′ =	/ 						
,—		Ex parte Quayle, 1935 C.D. 11,					
Disposition of Claims	·						
<u> </u>	re pending in the application						
· · · ·	Claim(s) <u>1-37</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.						
	Claim(s) is/are allowed.						
	S) Claim(s) is/are allowed. S) Claim(s) is/are rejected.						
7) Claim(s) is							
·	subject to restriction and/or	election requirement					
0) <u>⊠</u> Clalifi(s) <u>1-57</u> are	subject to restriction and/or	election requirement.					
Application Papers							
9)☐ The specification i	s objected to by the Examine	er.					
10)☐ The drawing(s) file	10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not re	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawi	ng sheet(s) including the correct	tion is required if the drawing(s) is o	bjected to. See 37 CFR 1.121(d).				
11)⊡ The oath or declar	ation is objected to by the Ex	caminer. Note the attached Office	e Action or form PTO-152.				
Priority under 35 U.S.C. §	119						
a) All b) Some 1. Certified co 2. Certified co 3. Copies of the application	e* c) None of: pies of the priority document pies of the priority document ne certified copies of the prio from the International Burea	s have been received in Applica rity documents have been recei	tion No /ed in this National Stage				
Attachment(s) 1) Notice of References Cited 2) Notice of Draftsperson's Pai 3) Information Disclosure State Paper No(s)/Mail Date	tent Drawing Review (PTO-948) ement(s) (PTO/SB/08)	4) Interview Summal Paper No(s)/Mail 5) Notice of Informal 6) Other:					

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DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Invention I (claims 1-20), drawn to an array diagnostic device and methods of its assembling, the device comprising an array substrate, a gasket with wells, a plate with through holes and a clamp;
- II. Invention II (claims 21-37), drawn to an array device comprising a flexible micro-titter plate and means for joining a plate to a substrate, the means being located on the surface of the plate.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the plate assembly of Invention I, as claimed, does not require the well plate to be formed of a flexible material. The micro-titer plate of Invention II can be used, for example, as a sample storage.

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3. Note that the claims of each of the above identified inventions are subject to further restriction, since they are directed to several patentably distinct species of the claimed invention.

With respect to Invention I, claim 14 is generic to the following species:

Species I (claims 15-19), drawn to a method of assembling an array device using clamps;

Species II (claim 20), drawn to a method of assembling an array device using adhesives.

With respect to Invention II, claim 21 is generic to the following species:

Species 1 (claims 24 and 34-35), drawn to an array device where the means for joining comprise adhesives;

Species 2 (claims 27 and 36), drawn to an array device where the means for joining comprise electrostatic forces.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 14 and 21 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

- 4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 5. A telephone call was made to Mr. William Hanlon on 02/25/2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalia Levkovich whose telephone number is 571-272-2462. The examiner can normally be reached on Mon-Fri, 8 a.m.-4p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jill A. Warden/

Supervisory Patent Examiner, Art Unit 1797